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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA,
17 SAN FRANCISCO DIVISION

18
19 GOOGLE LLC,
20 Plaintiff and Counter-defendant,
21 v.
22 SONOS, INC.,
23 Defendant and Counter-claimant.

Case No. 3:20-cv-06754-WHA
Related to Case No. 3:21-cv-07559-WHA

**SONOS, INC.'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL RE
ITS REPLY IN SUPPORT OF MOTION
TO STRIKE PORTIONS OF
GOOGLE'S EXPERT INVALIDITY
AND NONINFRINGEMENT REPORTS**

1 **I. INTRODUCTION**

2 Pursuant to Civil Local Rules 7-11 and 79-5, Sonos, Inc. (“Sonos”) hereby respectfully
 3 submits this Administrative Motion to Seal (“Administrative Motion”) in connection with Sonos,
 4 Inc.’s Reply in Support of Motion to Strike Portions of Google’s Expert Invalidity and
 5 Noninfringement Reports (“Sonos’s Reply”). Specifically, Sonos seeks to file under seal the
 6 information and/or document(s) listed below:

DOCUMENT	PORTIONS TO BE SEALED	DESIGNATING PARTY
Exhibit Y to the Declaration of Geoffrey Moss in Support of Reply (“Decl. of Moss”)	Portions in red boxes	Google and Sonos
Exhibit Y to the Declaration of Geoffrey Moss in Support of Reply (“Decl. of Moss”)	Portions in blue boxes	Sonos

12 **II. LEGAL STANDARD**

14 Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document,
 15 or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection
 16 under the law” (*i.e.*, is “sealable”). *See* Civil L.R. 79-5(b). The sealing request must also “be
 17 narrowly tailored to seek sealing only of sealable material.” *Id.*

18 “Historically, courts have recognized a ‘general right to inspect and copy public records
 19 and documents, including judicial records and documents.’” *Kamakana v. City & Cty. of
 20 Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435
 21 U.S. 589, 597 & n.7 (1978)). Accordingly, when considering a sealing request, “a ‘strong
 22 presumption in favor of access’ is the starting point.” *Id.* (quoting *Foltz v. State Farm Mutual
 23 Auto. Insurance Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)).

24 The Ninth Circuit has recognized that two different standards may apply to a request to
 25 seal a document – namely the “compelling reasons” standard or the “good cause” standard.
Blessing v. Plex Sys., Inc., No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22,
 26 2021) (citing *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir.
 27 2016)). The compelling reasons standard applies to any sealing request made in connection with
 28

1 a motion that is “more than tangentially related to the merits of a case.” *Id.* A party seeking to
 2 seal materials submitted with a motion that is “more than tangentially related to the merits of the
 3 case” must demonstrate that there are “compelling reasons” to keep the documents under seal.
 4 *WhatsApp Inc. v. NSO Grp. Techs. Ltd.*, 491 F. Supp. 3d 584, 596 (N.D. Cal. 2020) (citing *Ctr.*
 5 *for Auto Safety*, 809 F. 3d at 1101-1102). What constitutes a compelling reason is left to the
 6 “sound discretion of the trial court.” *Ctr. for Auto Safety*, 809 F.3d at 1097 (quoting *Nixon*, 435
 7 U.S. at 599).

8 Under the compelling reasons standard, “a court may seal a record only if it finds a
 9 ‘compelling reason’ to support such treatment.” *Blessing*, 2021 WL 6064006, at *12. In applying
 10 the “compelling reasons” standard, the Ninth Circuit has found appropriate the sealing of
 11 documents where court records could be used “as sources of business information that might
 12 harm a litigant’s competitive standing.” See *Ctr. for Auto Safety*, 809 F.3d at 1097. “Confidential
 13 business information in the form of ‘license agreements, financial terms, details of confidential
 14 licensing negotiations, and business strategies’ satisfies the ‘compelling reasons’ standard.”
 15 *Hetland v. LendingTree, LLC*, No. 19-CV-02288-JSC, 2021 WL 2313386, at *1 (N.D. Cal. May
 16 3, 2021) (quoting *Exeltis USA Inc. v. First Databank, Inc.*, Case No. 17-cv-04810-HSG, 2020
 17 WL 2838812, at *1 (N.D. Cal. June 1, 2020)).

18 **III. THE COURT SHOULD SEAL SONOS’S CONFIDENTIAL MATERIAL**

19 The portions of Exhibit Y outlined in red and blue boxes reference and contain Sonos’s
 20 confidential business information and trade secrets, including details regarding the architecture,
 21 technical operation of various products and research and development processes. The specifics of
 22 how these functionalities and processes operate is confidential information that Sonos does not
 23 share publicly. Additionally, some of the red-boxed portions of Exhibit Y include details
 24 regarding confidential agreements that are not public. Disclosure of this information would harm
 25 Sonos’s competitive standing by giving Sonos’s competitors highly sensitive information about
 26 Sonos’s business dealings with other entities. A less restrictive alternative than sealing the
 27 portions of Exhibit Y to Sonos’s Reply, as indicated in the table above, would not be sufficient
 28 because the information sought to be sealed is Sonos’s confidential business information and

1 trade secrets and is integral to Sonos's legal arguments. *See* Declaration of Clement Roberts in
2 Support of Administrative Motion filed concurrently herewith, ¶ 4.

3 **IV. CONCLUSION**

4 In compliance with Civil Local Rule 79-5(d) and (e), an unredacted version of the above-
5 listed document accompanies this Administrative Motion and a redacted version is filed publicly.
6 A proposed order is being filed concurrently herewith. For the foregoing reasons, Sonos
7 respectfully requests that the Court grant Sonos's Administrative Motion.

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9 Dated: February 17, 2023

ORRICK HERRINGTON & SUTCLIFFE LLP

and

LEE SULLIVAN SHEA & SMITH LLP

11 By: /s/ Clement S. Roberts

12 Clement Seth Roberts

13 Attorneys for Sonos, Inc.

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